
Appendix A

Analysis of Scoping Comments

South Fork #I, II, III Exploration Project

Three letters specific to the project were received during the scoping period of April 1, 2015 to May 1, 2015. The letters were analyzed and an analysis code assigned to the comments (Table 1).

Comment Analysis Codes

- 1: Outside the scope of the proposed action.
- 2: Already decided by law, regulation, Forest Plan, or other higher level of decision.
- 3: Irrelevant to the decision to be made.
- 4: Conjectural and not supported by scientific evidence.
- 5: General comment, suggestion, opinion, or position statement.
- 6: Other agency or partner's consultation, review, advice, recommendation(s), etc.
- 7: Already considered in the proposed action or is standard procedure.
- 8: Will be included in an analysis of effects to the environment.

Codes 1 – 6 are standard codes. Comments assigned to these codes are considered to be non-significant issues. Code 7 was added as a category for those suggestions that are already proposed or for procedures that are routinely done. Code 8 was added as a category for suggestions that will be analyzed for effects to the environment.

Table 1: Comment Analysis

Commenter	Comment	Disposition
Jim McIver Lewis-Clark ATV Club Inc.	The Lewis-Clark ATV Club Inc. supports the project.	Thank you for your comment.
Gary Mcfarlane Friends of the Clearwater	Since the [South Fork I, II, III and Brummit Claim Group Projects] are located near each other in the Orofino Creek drainage, and are apparently from the same claimant, why were they not assessed together so any cumulative impacts could be analyzed?	South Fork I, II, III and Brummit Claim Group were submitted as separate projects with separate Plan of Operations. Cumulative effects will be analyzed for each project.
	[I]s the timeframe of two weeks reasonable to do all of this work, replace the soil, and reclaim the site?	Plan of Operations processed under 36 CFR 220.6(e)(8) are valid for one year.
	[T]he scoping letter does not indicate whether any road access or roadwork of any kind (brushing causes impacts to water-sheds) to access the South Fork #3 sites. These sites are within if not almost on top of the stream. Thus, they will have an impact on the RHCA.	5, 7

Commenter	Comment	Disposition
Gary Macfarlane Friends of the Clearwater	[T]he agency's duties under the ESA are not overridden by any "rights" the applicants may have under the 1872 mining law. The courts are clear in ruling that prohibitions under the ESA must be enforced, even to deny mining operation, by requesting a new plan to meet the environmental concerns be submitted.	5, 7
	[T]he scoping letter states, "This is Phase II of a work plan to explore South Fork claims. The initial work was performed under a Notice of Intent, submitted 3-4-14." We have no record of the Forest Service ever requesting scoping comments on that proposal. Was scoping ever done with the public and was a decision signed?	A Notice of Intent does not require scoping because the District Ranger has determined that such operations do not cause significant disturbance of surface resources therefore scoping was not required. 36 CFR 228.4(a).
	Further, are other phases planned and, if so, aren't these connected actions and cumulative impacts under NEPA?	The claimant is in the exploration phase of operations. Future plans are contingent upon what the claimant discovers in his exploration. If he moves into the development phase of operations or wishes to pursue a higher level of exploration additional NEPA will be required.
	How does this project, with the connected phases and adjacent project exploration, fit in with...[Keep it small, to the extent practicable, and build, if warranted, from there? In other words, minimize the amount of disturbance to surface resources in order to prevent unnecessary destruction of the area, and to ensure to the extent feasible that disturbance is commensurate with each level of development.]	7
	The question [is], "Has the claimant made the discovery of a "valuable mineral deposit" on this claim?" A mining claim location does not give presumption of a discovery. "...location is the act or series of acts whereby the boundaries of the claim are marked, etc., but it confers no right in the absence of discovery, both being essential to a valid claim." (Cole v. Ralph, 252 U.S. 286, 294-96 (1920)).	2, 5
	The Forest Service needs to explain how this project fits into the bigger picture of the claims. Are there valuable minerals or is exploration merely a recreational hobby, on [sic] that has significant impacts on public resources.	3
Jonathan Oppenheimer, Idaho Conservation League	With regards to...South Fork I, II and II Exploration...we would like to ensure that the Forest adequately prevents water quality degradation and disturbance of wildlife and habitat. All mining activities and explorations should be stringently regulated and monitored.	2, 7, 8

Commenter	Comment	Disposition
Jonathan Oppenheimer, Idaho Conservation League	We also suggest that due to the proximity of [the Brumit Claim Group and South Fork I, II and II] exploration activities, the fact that they are proposed by the same operator, proposing similar activities (i.e. trenching) that they be considered connected actions and be analyzed as a single project in an EA, at a minimum.	Brumit Claim Group and South Fork I, II, III were submitted as separate projects with separate Plan of Operations. As both projects meet all the criteria outlined in 36 CFR 220.6., the use of a CE for each project is appropriate.
	The scoping notice failed to disclose where exploration activities would occur, whether any streams or water bodies may be impacted, what mitigation measures may be proposed, whether activities will require motorized vehicles off-roads or trails. The failure to identify trench sites makes it impossible to provide specific comments on this proposal. As a result, we encourage you to rescope the proposal after more specifics [are available].	<p>The scoping notice has a map of the exploration sites.</p> <p>The routes and means of accessing the sites were provided.</p> <p>Potential impacts to streams will be analyzed.</p> <p>Mitigation measures would be included in the permit, when/if the Plan of Operation is approved.</p> <p>Trenching sites would be decided by the operator but would be limited by conditions of the permit.</p>
	We are also concerned about categorically excluding these types of operations from further environmental review and strongly recommend that the Forest Service conduct an Environmental Analysis at a minimum.	2, 5
	The scoping notice didn't disclose whether or not any of the proposed stands are located in riparian habitat conservation areas. Any further details and/or clarification should describe how and whether impacts to RHCAs are anticipated, how soils, wetlands or other resources will be impacted, and whether any impacts to stream shade will be impacted.	7, 8
	In addition, the BA/BE should detail how the project is consistent with PACFISH/INFISH standards and how riparian management objectives will be satisfied when the project is complete.	7, 8
	The Idaho Conservation League believes that this operation may have short-term impacts on this area and long-term consequences on water quality and wildlife.	5, 8
	The project should comply with all federal and state laws including the National Forest Management Act standards and guidelines, Clearwater National Forest Plan, Riparian Habitat Conservation Areas, PACFISH/ INFISH guidelines, and the Clean Water Act.	7

Commenter	Comment	Disposition
Jonathan Oppenheimer, Idaho Conservation League	In light of all of the concerns a project of this nature raises, it is clear to us that this proposal does indeed require additional NEPA review and that the granting of a Categorical Exemption or CE would be inappropriate	The project meets all the criteria outlined in 36 CFR 220.6., therefore the use of a CE is appropriate.
	The proposed action may be potentially incompatible with aquatic species inhabiting this watershed.	5, 8
	Weed-free straw bales should line any drainages to protect streams from sedimentation and be removed upon completion of operations.	7
	<p>The effects of mining exploration activities on surface water and groundwater quantity and quality need to be determined for a full range of flow conditions. This geochemical analysis should include the following factors:</p> <ul style="list-style-type: none"> • preexisting water quality issues from previous mining activities • sedimentation from roads and trails • transportation of hazardous or toxic materials near streams • on-site water needs • source of water • the depth and flow of water table • the potential for household chemicals and toxins to leach into surface and ground waters • water capture and subsequent leakage by trenches • waste water discharge from site • storm water runoff 	<ul style="list-style-type: none"> • There are no known water quality issues due to previous mining activities within the drainage. • Sedimentation from roads and trails would be monitored and mitigated as stipulated in the approved Plan of Operation. • Fuel and oil would be the only toxic materials on site. A spill prevention plan would be in place, as per the Plan of Operation, before activities could begin. • There are no onsite water needs associated with this project. • A detailed analysis of the depth and flow of the water table is beyond the scope of this project. A more detailed analysis would be conducted if full scale mining is proposed at a later time. • No household chemicals and/ or toxins would be discharged onsite. • No waste water would be discharged from the open trenches or pits into the surrounding area. If required, water may be applied to upland areas. This would apply to excess storm water runoff as well.
	The scoping notice failed to indicate how and whether any streams will be utilized as source water for the project, and whether the impacts to aquatic resources will be impacted as a result of reductions in flow. Such water withdrawals may have adverse impacts on the water body from which the water would be withdrawn.	The project would not require a water source. The excavated material would be transported off site for testing

Commenter	Comment	Disposition
Jonathan Oppenheimer, Idaho Conservation League	The Forest Service should work with the operator to increase the water use efficiency and water recycling.	3
	The operator needs to obtain a water permit for all uses.	3
	The operator will need to obtain a storm-water discharge permit to reduce erosion from the disturbed area.	3
	Motorized vehicles are significant vectors in the spread of noxious weeds. Seeds and plant material from invasive plants ride in on ATVs, excavators and trucks and are deposited along trails and roadways where they germinate, out compete native vegetation and increase the risk of fire.	5
	Motorized vehicles also facilitate the spread of noxious weeds by creating seedbeds for these species by exposing mineral soil. User-created routes are particularly problematic in terms of their contribution to the spread of noxious weeds because significant soil disturbance is associated with these illegal and unauthorized routes.	5
	The scoping notice does not indicate whether operators would use designated roads or trails to reach each drill/trench site or whether they would create their own trails.	The scoping notice identified the Forest Service roads and stated that non-system logging roads would be used to reach the sampling locations.
	We ask that the Forest Service require the operator to avoid off-roading to avoid the spread of noxious weeds and damage of resources.	The operator would be required to adhere to the same standards as all other forest users regarding the use of motorized vehicles.
	The Forest Service should survey the project area for noxious weeds and analyze the extent to which motorized vehicles are contributing to their spread.	1
	All equipment must be washed off with a pressurized hose to dislodge noxious weed seeds before entering and leaving the project area.	7
	Disturbed soil and waste rock piles need to be reseeded with native plants, and weeded to prevent expansion of noxious weeds.	No waste rock piles would remain upon project completion. All disturbed areas would be seeded with native species or by transplanting “plugs” of existing species, or a combination of both. The project area would be monitored for noxious weeds and if found, appropriate measures taken for removal/control.
	Furthermore, the Forest Service should monitor the areas subjected to replanting for the full three years to ensure vegetation success.	The project site would be monitored until such a time as revegetation has reached a satisfactory level.

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Jonathan Oppenheimer, Idaho Conservation League	The [FS] must submit a biological assessment on all possible threats to listed species and the USFWS and NMFS must approve the report with a "no jeopardy" finding. No incidental take permit should be allowed.	7
	The agency should require a financial assurance that ensures reclamation would be completed in the event of abandonment of the site.	7
	The Forest Service should detail the amount, scope, and form of the financial assurance in the NEPA process to make certain that such a critical issue is subjected to public review and comment.	1
	Bonding costs need to be detailed in the EA for each alternative.	The project meets all the criteria for a CE, per 36 CFR 220.6., and therefore may be excluded from documentation in an EA.
	The reclamation bond must be independent of the bond covering any other mining operations. The bond must be substantive enough to cover the worst possible impacts to the area's fragile ecosystem as well as the area surrounding the transportation route.	7
	Bonding should also be provided for possible spills of fuels and other hazardous materials along the roadsides.	7
	Bonding costs should be calculated according to [FS] pricing, including the cost of renting and transporting equipment and wages for all workers and supervisors.	7
	These bonding calculations should be included in an environmental review and available for public comment and review.	1
	Reclamation should take place concurrently with the exploration operation.	7
	Each drilling site should be restored to a more natural condition than presently exists.	1
	Topsoil or large woody debris should be salvaged and replaced following operations. This includes refilling all trenches, stabilizing waste rock piles, lining and capping mining wastes, recontouring/revegetating the site, removing noxious weeds, naturalizing the area.	7
	Only one trench should be open at any one time and...	7
	reclamation efforts should be completed prior to initiating trenching at the next location.	Reclamation of one trench would be concurrent with the opening of another trench.
	Complete reclamation should occur as soon as possible after operations cease.	7
	All garbage must be disposed of appropriately in a timely fashion to minimize interactions with wildlife.	7

Commenter	Comment	Disposition
Jonathan Oppenheimer, Idaho Conservation League	Burning of garbage should not be allowed.	7
	All food should be stored in bear-proof containers.	3
	All human waste should be disposed of properly in an approved sanitation facility.	7
	As motorized equipment will be utilized likely including, but not limited to, excavators, pumps, ATVs, generators, trucks, etc., the Forest Service should regulate their use.	The operator would be required to adhere to the same standards as all other forest users regarding the use of motorized equipment, generators, sound levels, etc.
	Decibels should be monitored,	
	fuel storage must be sufficiently stored and handled within secondary containment systems,	A fuel spill prevention plan would be required as a condition of the Plan of Operation approval.
	and generators should be turned off at sunset to minimize noise levels and light levels according to Dark Sky principles.	There are no restrictions on operating generators or other equipment beyond sunset on the Forests.
	The Forest Service should consider impacts to recreationists and require measures to avoid, minimize and mitigate these impacts.	Impacts (noise, exhaust, etc.) to recreationists would be similar to that of other mechanized earth-moving equipment that normally operates on the Forest. All required measures for public safety would be implemented and adhered to by the operator.
	An appropriate sized spill kit should be on site for refueling.	7
	Substance specific spill kits should [also] be available in all operating areas and be inspected regularly.	5
	These kits should include fuel containment equipment, including chemical absorbers and booms.	1
	No hazardous materials should be stored on the Forest and on-site fuel quantities should be limited.	7
	We recommend that all motorized equipment have working mufflers and spark arrestors and that electrical equipment is be properly insulated.	1
	Fire extinguishers should be inspected regularly throughout the project period and located in all vehicles. Handheld implements (shovels or axes) should be accessible at all operating locations.	Mining claimants and operators would be required to adhere to the same fire prevention and protection standards as all other forest users and equipment operators. As such, they would have all the needed fire prevention equipment on site.
	Hazardous wastes including grease, lubricants, oil, and fuels need to be disposed off offsite in an environmentally appropriate manner on a weekly basis.	7

Commenter	Comment	Disposition
Jonathan Oppenheimer, Idaho Conservation League	The Forest Service must also analyze and disclose the direct and indirect cumulative effects of this project in conjunction with all past, present and reasonably foreseeable future actions, including additional mineral exploration projects in the area.	Cumulative effects of the proposed activities will be analyzed by resource. The scope of the cumulative effects analysis would be determined by the individual resource specialists.
	We are concerned about the potential downstream impacts this exploration project may have on the watershed.	5
Idaho Conservation League Supplemental Comments (The ICL supplemental comments involves 26 small mining projects, including the South Fork I, II, III Exploration project.)	[W]e feel strongly that an EA is required for each project based on the degree of, or uncertainty surrounding, extraordinary circumstances present for each project.	We have determined no extraordinary circumstances exist (36 CFR 220.6), and therefore the use of a CE is appropriate for each project.
	We also [have] concerns about whether each Project would comply with the Forest Plan, the Endangered Species Act, other laws and regulations.	7
	We believe it is improper for you to approve any of these 26 projects using Category 8 and must at a minimum prepare an EA for each project.	The projects met all the criteria for Category 8, per 36 CFR 220.6., and therefore may be excluded from documentation in an EA.
	[T]he agency cannot utilize Category 8 ... the Ninth Circuit has held, an agency's decision to establish a category of actions that are excluded from full NEPA review can only be made with a full understanding of the significance of the impacts resulting from application of the category.	1, 2, 3, 5
	The Forest Service never performed a direct, indirect or cumulative impacts analysis (or any of the required ESA consultation and analysis) on Category 8 -- routine, short-term mining investigations and their incidental support activities -- and the related provisions in Chapter 30 of the Forest Service Handbook regarding extraordinary circumstances	1, 3, 5
	[B]ecause adoption of Category 8 and Chapter 30 violated NEPA and the ESA, the Forest cannot rely upon on those provisions for the approval of the proposed exploration projects.	1, 2, 5

Commenter	Comment	Disposition
Idaho Conservation League Supplemental Comments	[E]ven if Category 8 was properly adopted, we question whether you can use Category 8 to approve any of these 26 mineral exploration projects, because [they] are concentrated in three ranger districts and have potentially significant cumulative impacts on the human environment ... Accordingly, Category 8 cannot be used to approve these projects.	2, 5, 8
(The ICL supplemental comments involves 26 small mining projects, including the South Fork I, II, III Exploration project.)	Not only must you consider the cumulative impacts of [the] 26 Projects currently being considered for approval under Category 8 ... you must also consider the impacts of all projects previously approved using Category 8 ... Furthermore, you must review any other past, present, or reasonably foreseeable impacts in your cumulative impacts analysis for these projects, including but not limited to: road construction, timber management, minerals exploration and development, livestock management, travel management, wildfire, prescribed fire, or other activities.	Cumulative effects of the proposed activities were / will be analyzed by resource. The scope of the cumulative effects analysis was / will be determined by the individual resource specialists.